

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Deepak R. Rao
Group Art Unit : 1624
Patent No. : 6,608,060
Patentees : Guy W. Bemis et al.
Application No. : 09/336,266 Confirmation No. : 7430
Filed : June 18, 1999
For : INHIBITORS OF p38

Menlo Park, California 94025
November 14, 2011

ATTN: Office of Petitions
Mail Stop Petition
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. §1.181 TO CORRECT FILING DATE OF
APPLICATION IN THE U.S. PATENT AND TRADEMARK OFFICE RECORDS

Sir:

Pursuant to 37 C.F.R. §1.181, patentees respectfully petition the Director to correct the filing date of U.S. Patent Application No. 09/336,266 (the '266 application) in the Office's records. The '266 application serves as a priority application for U.S. Patent Application No. 13/107,802, which is currently pending. The '266 application was filed on June 18, 1999, but the Office's Patent Application Information Retrieval (PAIR)

system incorrectly lists the filing date for the application as June 14, 1999. Applicants hereby request that the Office's records be updated to reflect the correct filing date.

Applicants do not believe that this particular situation has been specifically provided for in the regulations. Pursuant to 37 C.F.R. §1.182, this petition is therefore accompanied by the petition fee set forth in 37 C.F.R. §1.17(f).

Factual Background

As noted above, the '266 application was filed on June 18, 1999. The Office date-stamped a return postcard with the correct filing date, but the Filing Receipt issued in the application on July 16, 1999 recited an incorrect filing date, namely June 14, 1999. Applicants filed a Request for Corrected Filing Receipt on February 19, 2003, together with an Amendment and Reply to Final Office Action. The amended claims were subsequently allowed, but the Request for Corrected Filing Receipt was apparently not acted on. The application thus issued as U.S. Patent No. 6,608,060 (the '060 patent) on August 19, 2003 with the incorrect filing date on its face.

On March 17, 2006, patentees and assignee, Vertex Pharmaceuticals, Inc., filed a Request for Certificate of Correction Under 37 C.F.R. §1.322 in connection with the '060 patent. See Attachment 1. The Request included a copy of the date-stamped return postcard from the original application as Exhibit 1, a copy of the February 19, 2003 Request for Corrected Filing Receipt as Exhibit 2, and a copy of the date-stamped return postcard from the Request for Corrected Filing Receipt as Exhibit 3. On November 28, 2006, the Director issued a Certificate of Correction that corrected the

filing date of the '060 patent by substituting the correct June 18, 1999 filing date for the incorrect June 14, 1999 filing date on the face of the patent. See Attachment 2. The Office's electronic records were apparently not updated to reflect the correct filing date, however, as the PAIR system continues to list the incorrect filing date in the application data for the '266 application/ '060 patent.

Conclusion

Applicants request that the Director consider the above information and update the Office's records to reflect the correct June 18, 1999 filing date for the '266 application.

Respectfully submitted,

/David A. Roise/

David A. Roise (Reg. No. 47,904)
Attorney for Applicants

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Customer No. 86012
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Patent No.: 6,608,060
Application No.: 09/336,266
Petition Under 37 C.F.R. §1.181 to Correct
Filing Date of Priority Application

Attachment 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentees : Guy W. Bemis et al.
Patent No. : 6,608,060
Issued : August 19, 2003
Application No. : 09/336,266
Filed : June 18, 1999
For : INHIBITORS OF p38

Palo Alto, California
March 17, 2006

ATTN: Certificate of Correction Branch
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF
CORRECTION UNDER 37 C.F.R. §1.322

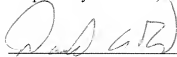
Sir:

This is to request a Certificate of Correction under 37 C.F.R. § 1.322 in the above-identified patent. Patentees and assignee (Vertex Pharmaceuticals, Inc.) have enclosed a Certificate of Correction (Form PTO/SB/44) in duplicate, listing an error that has been found in the above-identified patent. The listed error is believed to be the responsibility of the United States Patent and Trademark Office ("USPTO"). Accordingly, patentees and assignee respectfully request that the USPTO issue a Certificate of Correction.

Patentees and assignee request correction of the filing date listed in item 22 on the cover page of the issued patent. Patentees had filed the above-identified application on June 18, 1999. The USPTO date stamped and mailed the return postcard indicating receipt of the application. A copy of the return postcard is enclosed herewith as Exhibit 1. The Filing Receipt, however, incorrectly recited the filing date of the application as June 14, 1999. Patentees had filed a Request for Corrected Filing Receipt ("the Request") on February 19, 2003. A copy of the Request is enclosed herewith as Exhibit 2. The USPTO again date stamped and mailed the return postcard indicating receipt of the Request. A copy of the return postcard is enclosed herewith as Exhibit 3. The USPTO, however, did not issue a Corrected Filing Receipt, and the patent issued with the incorrect June 14, 1999 filing date. Thus, the failure to list the correct filing date in the issued patent is a USPTO error.

The requested correction does not constitute new matter or require reexamination or additional search. As the listed error is believed to be the responsibility of the USPTO, no fee is believed to be required in connection with this Request. However, should it be determined that a fee is due, the Commissioner is hereby authorized to charge any fee due, or to credit any overpayment to Deposit Account No. 06-1075, Order No. (003602-0003). A duplicate copy of this Request is enclosed herewith.

Respectfully submitted,



James F. Haley, Jr. (Reg. No. 27,794)

Nina R. Horan (Reg. No. 47,662)

David A. Roise (Reg. No. 47,904)

Attorneys for Applicants

FISH & NEAVE IP GROUP

ROPES & GRAY LLP

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New York, New York 10020-1104

Tel.: (212) 596-9000

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**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO. : 6,608,060

Page 1 of 1

APPLICATION NO.: 09/336,266

ISSUE DATE : August 13, 2003

INVENTOR(S) : Bemis et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Cover Page, Item [22], delete "Jun. 14, 1999" and substitute therefor -- Jun. 18, 1999 --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Fish & Neave IP Group, Ropes & Gray LLP
1251 Avenue of the Americas
New York, NY 10020-1104

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Exhibit 1

APPLICANT GUY W. BEMIS ET AL

VIP/96-16 CIP2

TITLE: 1 LIBITORS OF p38

66/81/90



PAGES OF APPLICATION 125

992300/60

NUMBER OF CLAIMS 37

old S. N. 5250f

SHEETS OF DRAWING

DECLARATION: ☒ EXECUTED ☐ UNEXECUTED

CHECK IN THE AMOUNT OF \$936.00

ASSIGNMENT RECORDATION FORM COVER SHEET

ASSIGNMENT & CHECK IN THE AMOUNT OF \$40.00

VERIFIED STATEMENT OF SMALL ENTITY STATUS

Receipt is hereby acknowledged of the above

COMMISSIONER OF PATENTS
AND TRADEMARKS

EI124979386 US

Exhibit 2

VPI/96-16 CIP2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Deepak Rao
Group : 1624
Applicants : Guy W. Bemis et al.
Application No. : 09/336,266
Confirmation No. : 7430
Filed : June 18, 1999
For : INHIBITORS OF p38

New York, New York
February 19, 2003

Honorable Commissioner
for Patents
Washington, D.C. 20231

REQUEST FOR CORRECTED FILING RECEIPT

Sir:

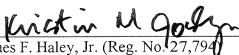
Applicants request that a Corrected Filing Receipt be issued in the above-identified provisional application. The Filing Receipt incorrectly recites the filing date of the application – June 18, 1999. The Filing Receipt erroneously lists the filing date as June 14, 1999. Accordingly, "June 14, 1999" should be amended to recite "June 18, 1999".

In support of this Request, applicants have enclosed a copy of the postcard date stamped by the United States Patent and Trademark Office (Exhibit "2"), listing the

filing date as June 18, 1999. Applicants have also enclosed a copy of the Filing Receipt and noted the corrections thereon (Exhibit "3").

Accordingly, applicants respectfully request that the Patent and Trademark Office issue a corrected Filing Receipt reciting the correct filing date of June 18, 1999. The error in the Filing Receipt is believed to be the responsibility of the United States Patent and Trademark Office. If for any reason the error is deemed to be the responsibility of applicants, the Commissioner is hereby authorized to charge payment of any fee due in connection with this Request to Deposit Account No. 06-1075. A duplicate copy of this Request is enclosed herewith.

Respectfully submitted,



James F. Haley, Jr. (Reg. No. 27,794)
Attorney for Applicants
Karen E. Brown (Reg. No. 43,866)
Kristin M. Joslyn (Reg. No. 47,692)
Agents for Applicants
c/o FISH & NEAVE (Customer No. 1473)
1251 Avenue of the Americas
New York, New York 10020-1104
Tel.: (212) 596-9000

FILING RECEIPT



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

R

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
09/336,266	06/14/99	1614	\$1,113.00	VPI/96-16.CI	0	87	3

06/18/99

CIP2

JAMES F HALEY JR
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK NY 10020

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts of Application" ("Missing Parts Notice") in this application, please submit any corrections to this Filing Receipt with your reply to the "Missing Parts Notice." When the PTO processes the reply to the "Missing Parts Notice," the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s) GUY W. BEMIS, ARLINGTON, MA; FRANCESCO GERALD SALITURO, MARLBOROUGH, MA; JOHN PATRICK DUFFY, NORTHBOROUGH, MA; JOHN E. COCHRAN, LOWELL, MA; EDMUND MARTIN HARRINGTON, CAMBRIDGE, MA; MARK A. MURKO, HOLLISTON, MA; KEITH P. WILSON, HOPKINTON, MA; MICHAEL SU, NEWTON, MA; VINCENT P. GALULLO, WATERTOWN, MA.

CONTINUING DATA AS CLAIMED BY APPLICANT-
THIS APPLN IS A CON OF PCT/US97/23392 12/17/97
PROVISIONAL APPLICATION NO. 60/034,288 12/18/96

IF REQUIRED, FOREIGN FILING LICENSE GRANTED 07/16/99 ** SMALL ENTITY **
TITLE
INHIBITORS OF P38

PRELIMINARY CLASS: 514

RECEIVED

JUL 20 1999

FISH & NEAVE - PATENT DEPT.
REFERRED TO DDC
NOTED BY DDC

DATA ENTRY BY: SASFAI, DAVID J. TEAM: 03 DATE: 07/16/99

Exhibit 3

Doc. No. VPI/96-16 CIP2

Applicant Guy W. Bemis et al.

Serial No. 09/336,266 *Filed* June 18, 1999

Receipt is hereby acknowledged of the
Transmittal Letter (in duplicate), Petition for Extension of
Time (in duplicate); check for \$410.00; Amendment under
37 C.F.R. Section 1.116 and Reply to Office Action with
Exhibit 1; Petition for Corrected Filing Receipt with
Exhibits 2-3.

Dated February 19, 2003

RECEIVED
FEB 19 2003
RESPONSE UNDER 37 C.F.R. 1.116
EXP. PROCEDURE
EXAMINING GROUP 1624

Filed in connection with the above case.

03602.003
JFH/KEB/KJ

Express Mail No.
EH623266087US

COMMISSIONER OF PATENTS
AND TRADEMARKS

Patent No.: 6,608,060
Application No.: 09/336,266
Petition Under 37 C.F.R. §1.181 to Correct
Filing Date of Priority Application

Attachment 2

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,608,060 B1
APPLICATION NO. : 09/336266
DATED : August 19, 2003
INVENTOR(S) : Bemis et al.

Page 1 of 1

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page, Item [22], delete "Jun. 14, 1999" and substitute therefor -- Jun. 18, 1999 --.



Signed and Sealed this
Twenty-eighth Day of November, 2006

JON W. DUDAS
Director of the United States Patent and Trademark Office